

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG

FELIX IBARRA-VILLALVA,

Petitioner,

v.

CIVIL ACTION NO. 3:07-CV-39  
(Judge Bailey)

BUREAU OF PRISONS, et al.,

Respondents.

**ORDER DENYING PETITIONER'S MOTION FOR CERTIFICATE OF APPEALABILITY**

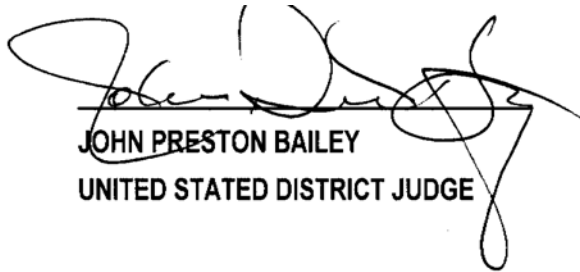
This matter is now before the Court for consideration of the petitioner's motion for certificate of appealability [Doc. 36] filed August 23, 2007. As indicated in the motion, the petitioner seeks appeal from this Court's Order Adopting the Report and Recommendation of the Magistrate Judge and denying the petition [Doc. 21].

Under the controlling authority, a certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). In order to satisfy this standard, the petitioner must demonstrate that reasonable jurists would find any assessment of the constitutional claims or dispositive procedural rulings made by the Court wrong or debatable. *Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683-84 (4th Cir. 2001). After an independent review of the record, it is clear that the petitioner has failed to make the requisite showing. Accordingly, the **petitioner's motion for certificate of appealability [Doc. 36] is DENIED.**

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record.

**DATED:** August 27, 2007.



JOHN PRESTON BAILEY  
UNITED STATES DISTRICT JUDGE